IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

C.W.P. No. 814 of 2007

Date of decision: 27.9.2007

Khoob Ram **Petitioner**

Versus

State of H.P. and others **Respondents**

Coram

The Hon'ble Mr. Justice Deepak Gupta, Judge.

The Hon'ble Mr. Justice V.K. Ahuja, Judge.

Whether approved for reporting?[1]

For the Petitioner: Mr. Imran Khan, Advocate

For the Respondents No.1 to 3 : Mr.M.S.Chandel, Advocate General, with Mr. R.M.Bisht, DAG.

For respondent No. 4 : Mr. Sharawan Dogra, Advocate

Per Deepak Gupta, J. (Oral)

By means of this writ petition the petitioner has prayed that he and his family members be permitted to use the pipeline road which goes from Dhalli to Seog in the Catchment area of Dhalli. He has also prayed that he be permitted to ply the scooter in the morning and evening on the said road.

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[1] ***Whether the reporters of the local papers may be allowed to see the Judgment?***

The case of the petitioner rests on the permission granted to him by the Municipal Corporation, Shimla which had permitted him to use this road. At the relevant time it was the Municipal Corporation which was incharge of the Catchment area at Dhalli and it had permitted the petitioner on 30.4.1985 to use the road passing through the Catchment area subject to the conditions that he will not use a bicycle; there will be no smoking in the Catchment area and no damage shall be caused to the trees and forest in the Catchment area. Even as per the averments of the petitioner despite this permission whereby he was to use the road only to walk, he actually used to ply his scooter on this road. Now the Forest Department which has taken over the management of the Catchment area has stopped the petitioner from using this road. The petitioner contends that this is the only road which conveniently connects to his village with Shimla.

An additional affidavit has been filed by the Divisional Forest Officer, Shimla in which it has been stated that buses ply to villages Tipra and Jagroti on another road part of which passes through the Catchment area. From village Tipra (D stream), there is a foot path

which goes to the house of the petitioner which is about 3 k.m. in length. It is also mentioned that this foot path is outside the Sanctuary area and is used by the inhabitants of Karyali village also. It is further mentioned that beyond Tipra there is a jeep-able road till boundary pillar No. 63 and the distance from Tipra to pillar No. 63 is 3.5 k.m. The petitioner can ply his scooter on this road upto boundary pillar No. 63 and from there the distance to his house is equal to the distance from pipeline road.

We fail to understand the insistence of the petitioner in only using the pipeline road. This road goes through the heart of the Catchment area. The Catchment area of Dhalli is one of the most ecologically sensitive areas in and around Shimla. The water from this Catechment area is used to partially supply water to the Shimla town. The area is covered with a dense forest and there is lot of bio diversity in the Catchment area. It is in the larger public interest that there is minimal public entry in this Catchment area.

It is not as if the petitioner is without any road. The H.R.T.C. buses ply upto Tipra which fact the petitioner cannot deny. In fact the petitioner in his writ petition had tried to project that there is no alternative

road at all which assertion we have found to be totally false and incorrect. The petitioner has no right to use the pipeline road. He can neither use this road as a foot path nor can be permitted to ply a scooter on this road. The petition is without any merit and is dismissed. No costs.

(Deepak Gupta),J.

September 27, 2007(K) (V. K.Ahuja),J.